

DRAWING AMENDMENTS

Please see the attached replacement sheets for Figs. 1 and 3, and Figs 2 and 4. These replacement sheets provide formal, better-quality drawings of the can of the invention, including the tubular element and the base.

As requested in the Office Action (page 3, lines 1-3), a detailed peripheral view of the base showing the design of the protrusion is attached to this amendment as new Fig. 5. This new figure adds no new matter, but instead merely shows the peripheral edge of the base more clearly.

As also requested in the Office Action (page 2, lines 17-18), drawings showing the tubular element without the base, and the location of arcuate recess 12 on the the tubular element, are attached to this amendment as new Figs. 6 and 7. These new figures add no new matter, but instead merely show the lower peripheral portion of the tubular element more clearly.

REMARKS

Specification Informalities

The specification amendments address the objections on page 2 of the Office Action.

Specifically, the spelling of “thinwalled” has been changed to “thin walled” on page 2, lines 13-14 and page 5, line 1 of the submitted specification; the reference number for the base has been corrected on page 4, line 23 of the of the submitted specification; “recess” has been inserted before reference 9 on page 6, line 8 of the submitted specification; the word “to” has been removed from page 5, line 12 of the submitted specification; arcuate recess 12 is now shown on new Fig. 7; and page 5, lines 15-16 of the submitted specification have been amended to clarify that face 16 is on protrusion 8 and face 14 is on recess 9. Applicant submits that these correction have added no new matter.

Drawing Objection

The drawing objection on pages 2-3 of the Office Action has been addressed by providing new Fig. 4, which is a detailed peripheral view of the base showing the design of the protrusion.

Claim Objections

The claim objections on pages 3-4 of the Office Action have been addressed by amending the spelling of “thinwalled” to “thin walled” in Claims 1-3 and 8, by removing the extraneous “and” from Claim 9, and by replacing the extraneous “by” in Claim 9 with “at”.

35 USC § 103 Rejection – Mirasol '436 in view of Hayes '662

Applicant respectfully submits that Mirasol's physical structure is different than that of the invention, in a number of ways that are distinctly defined in the claims. The most compelling of these is that Mirasol does not disclose any difference in wall thickness at the position of the seal as compared with the wall thickness of the rest of the body. Consequently there is no "**relatively** thin walled recess" in the lower peripheral portion of Mirasol's body, as distinctly defined in Claim 1 of the invention. Indeed, Mirasol's recess does not permanently deform at all as in the invention, but rather it appears that the protrusion in Mirasol's base is specifically configured so as to be capable of temporarily deforming during insertion.

Moreover, there is no corresponding relatively thin walled recess in the lower peripheral portion of Hayes' body either. Instead, the only recess in Hayes is in the base. Also, Hayes' base does not disclose a thickened portion or a thin walled recess if the seal corresponding to that of the current invention is considered to occur in Hayes at reference 20 in Figure 3. If the seal is considered to occur at reference 16 in Figure 3 of Hayes, then similarly although there is a thickened portion below the point of sealing there is no **recess** at all.

Further, Mirasol does not contemplate that the seal formed by utilizing his invention will be adequate for liquids as is the case with the invention, since Mirasol speaks of containers for popcorn and potato chips and specifically says in column 2 at line 55 that if liquids are to be contained a sealant or caulking compound must be utilized. In sharp contrast, the essence of the invention is that the seal (including liquid sealing) is effected without sealing compounds or

adhesives. Similarly, in Hayes it is contemplated that a sealant must be utilized and that the seal formed by the mere mechanical configurations of the device is not adequate. This is apparent from column 2 line 16 of Hayes, which refers to a "vulcanising agent 22".

However, to make the markedly different physical structure of the current invention crystal clear, Claim 1 has been amended to define that the protrusion on the base is *sized* to engage *and permanently outwardly deform* a relatively thin walled recess in the radially internally facing lower peripheral portion of the body....". Nothing in the prior art discloses or suggests this amended language. Support for this amendment is found in the central portion of paragraph 15 of the published specification (page 2 of the submitted specification), where plastic versus elastic deformation is discussed as well as the relative memories of the thin walled versus the thicker walled portions and the materials PET and PEN.

In addition, Claim 1 has been amended to define that the wall thickness of the body not only below the thin walled recess, but also above the thin walled recess, exceeds that of the thin walled recess. Nothing in the prior art discloses or suggests permanent plastic deformation of a recess which is relatively thin walled compared to areas above and below the recess. This amendment is also supported by the specification and drawings.

Finally, since independent claim 1 now defines patentably over the prior art, dependent claims 2-11 also define patentably for the same reasons.

CONCLUSION

For all of the above reasons, Applicant submits that the specification, drawings, and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore Applicant submits that this application is now in condition for allowance, which action they respectfully solicit.

Respectfully,

/John A. Galbreath/

John A. Galbreath
Reg. # 46,718
Galbreath Law Offices, P.C.
2516 Chestnut Woods Court
Reisterstown, MD 21136
Tel. (410) 628-7770

Certificate of Electronic Transmission: I certify that on the date below, this document and referenced attachments, if any, was submitted electronically to the U.S. Patent Office via its online filing system.

26 September 2007

/John A. Galbreath/